

medical services vehicle service that meets the standards and requirements of this Act is exempt from the Insurance Code for the sole and limited purpose of providing the emergency medical services vehicle services.

Strike SECTION 5 and substitute the following:

This Act takes effect September 1, 1987 except that SECTION 4 takes effect immediately.

The amendment was read and was adopted viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment was adopted viva voce vote.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 170 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 170 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Santiesteban, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

SENATE RULE 103 SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider H.B. 53 at 10:30 a.m. tomorrow.

SENATE RULE 103 SUSPENDED

On motion of Senator McFarland and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Criminal Justice might consider the following bills at 10:30 a.m. tomorrow:

H.B. 181

H.B. 31

ADJOURNMENT

On motion of Senator Parker, the Senate at 4:59 p.m. adjourned until 11:00 a.m. tomorrow.

THIRTEENTH DAY (Monday, July 20, 1987)

The Senate met at 11:00 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon,

McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Our Heavenly Father, bless us in our plans and purposes this day, but defeat us in them if they lead in the wrong direction. For all the difficulties that may confront us, give us grace sufficient; for all the questions we may have to decide, give wisdom.

May we increase in knowledge of things that matter most and understand better the things we now only know in part. Bless all who serve here today. In Jesus' name, Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

REPORT OF STANDING COMMITTEE

Senator Jones submitted the following report for the Committee on Finance:

H.B. 53

CONFERENCE COMMITTEE REPORT HOUSE BILL 61

Senator Glasgow submitted the following Conference Committee Report:

Austin, Texas
July 19, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 61 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

GLASGOW
ANDERSON
KRIER
McFARLAND
PARMER
On the part of the Senate

MORALES
SCHLUETER
EARLEY
WILSON
A. LUNA
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of State.

CONFERENCE COMMITTEE REPORT SENATE BILL 1

Senator Jones submitted the following Conference Committee Report:

Austin, Texas
July 19, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

JONES
BROOKS
CAPERTON
FARABEE
MONTFORD

On the part of the Senate

RUDD
CAVAZOS
McWILLIAMS
VOWELL
WILLIAMSON

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ORDERED NOT PRINTED

On motion of Senator Jones and by unanimous consent, the Conference Committee Report on **S.B. 1** was ordered not printed in the Senate Journal.

SENATE RESOLUTION 115

Senator Glasgow offered the following resolution:

S.R. 115, Authorizing the Conference Committee on **H.B. 61** to consider certain matters and to make certain modifications in the language.

The resolution was read and was adopted viva voce vote.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.C.R. 24	S.B. 27	S.B. 58
S.J.R. 5	S.B. 28	S.B. 62
S.J.R. 6	S.B. 35	S.B. 64
S.J.R. 8	S.B. 36	S.B. 68
S.B. 11	S.B. 40	S.B. 81
S.B. 20	S.B. 45	S.B. 84
S.B. 22	S.B. 50	S.B. 87
S.B. 23	S.B. 51	

HOUSE BILL 142 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 142, Relating to the review by a court of review of certain actions of the State Commission on Judicial Conduct.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 142 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 142 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 130 ON SECOND READING

On motion of Senator Tejeda and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 130, Relating to the relocation of existing cemeteries in certain cities on approval of the governing body of the city.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 130 ON THIRD READING

Senator Tejeda moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 130 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 133 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 133, Relating to the jurisdiction of statutory county courts.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 133 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 133 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 167 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 167, Relating to actions under Titles 1 and 2, Family Code, including an action for child support or possession of and access to a child and to the offense of criminal nonsupport.

The bill was read second time.

Senator Farabee offered the following amendment to the bill:

Floor Amendment No. 1

Amend H.B. 167 in the following manner:

1. Substitute the following for SECTION 3:

SECTION 3. Section 14.03, Family Code, is amended by amending subsection (b) and adding subsection (i) to read as follows:

(b) The court by local rule shall [may] establish and publish schedules, guidelines, and formulas for use in determining the times and conditions for possession of and access to a child.

(i) The Supreme Court of Texas shall determine whether it should promulgate advisory guidelines by rule to aid the trial courts of this state in promulgating the local schedules, guidelines, and formulas for use in determining the times and conditions for possession of and access to a child as required by Subsection (b) of this Section. The supreme court shall appoint an advisory committee of 15 or more persons, composed of judges, lawyers, and laypersons, to assist it in making this determination, and, if appropriate, to assist in the periodic review and updating of any advisory guidelines published by the court. At least five members of this committee shall be or have been managing conservators of a child, and at least five members shall be or have been possessory conservators.

2. Add the following to subsection as the last sentence in subsection (h) in SECTION 4 of the bill:

At least five members of the committee shall be or have been obligated to make payments of periodic child support, and at least five members shall be or have been entitled to receive periodic child support payments.

The amendment was read and was adopted viva voce vote.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 2

Amend H.B. 167 by changing SECTION 14 to read as follows:

SECTION 14. Subsection (a), Section 17B, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Rule 50c, Article 4477, Vernon's Texas Civil Statutes), is amended by adding subdivision (3) to read as follows:

(3) The State Bureau of Vital Statistics, the Office of the Attorney General, and the clerks of courts having jurisdiction of cases arising under Titles I and II of the Family Code shall recommend a form for the expanded reporting of information relating to divorces and annulments of marriages to the 71st Legislature, and shall consider for inclusion in the form the amount of periodic child support ordered, if any, the frequency with which the obligation is made, and other information needed by the state for the effective enforcement of child support orders. Any recommendations shall include a statement of fiscal impact on state and local governments.

The amendment was read and was adopted viva voce vote.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 167 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 167** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 168 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 168, Relating to the division and disposition of marital property and to spousal liability.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 168 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 168** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 163 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 163, Relating to the process of optical data storage.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 163 ON THIRD READING

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 163** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 117 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 117, Relating to the removal of vehicles that are stopped in violation of state law.

The bill was read second time.

Senator Sarpalius offered the following amendment to the bill:

Amend **H.B. 117** by adding a new Section 2, to read as follows, after Section 1 and renumbering all succeeding sections accordingly:

SECTION 2. Section 22(e), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The judge or officer holding a hearing under Subsection (a), (b), or (d) of this section, or the court trying an appeal under Section 31 of this Act [Subsection (c) of this section], on determining that the License shall be suspended or revoked, may, when it appears to the satisfaction of the court that the ends of justice and the best interests of the public as well as the defendant will be subserved thereby, recommend that the revocation or suspension be probated on terms and conditions deemed by the officer or judge to be necessary or proper. The report to the department of the results of the hearing must include the terms and conditions of such probation. When probation is recommended by the judge or officer presiding at a hearing, the department shall probate the suspension or revocation. This subsection does not apply to an appeal under Section 31 of this Act for suspension of a driver's license or denial of operating privileges under Section 2, Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes).

The amendment was read and was adopted viva voce vote.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 117 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 117** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 176 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 176, Relating to the effective date of certain Acts of the 70th Legislature, 2nd Called Session, 1987.

The bill was read second time.

Senator Glasgow offered the following amendment to the bill:

Amend **H.B. 176** by striking on line 19, page 1 the reference to **H.B. 63**.

The amendment was read and was adopted viva voce vote.

On motion of Senator Glasgow and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 176 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 176** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 53 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, all necessary rules including the printing rule were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 53, Relating to the maximum property tax rate that may be adopted by certain rural fire prevention districts.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 53 ON THIRD READING

Senator Glasgow moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 53** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 59 ON SECOND READING

On motion of Senator Johnson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 59, Relating to the conflicts of interests of employees of housing authorities.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 59 ON THIRD READING

Senator Johnson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 59** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 109 ON SECOND READING

On motion of Senator Parmer and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 109, Relating to the confinement of persons who are arrested in a county but are taken before a magistrate in another county.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 109 ON THIRD READING

Senator Parmer moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 109** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 101 ON SECOND READING

On motion of Senator Parmer and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 101, Relating to the creation and jurisdiction of certain county courts.

The bill was read second time.

Senator Parmer offered the following amendment to the bill:

Amend **H.B. 101** in Sections 4(a), (b), (c), and (d) by striking "October 1, 1988," and substituting "September 1, 1991,".

The amendment was read and was adopted viva voce vote.

On motion of Senator Parmer and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 101 ON THIRD READING

Senator Parmer moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 101** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

SENATE RESOLUTION 109

Senator Brooks offered the following resolution:

S.R. 109, Establishing the Task Force on Waste Management Policy.

TRUAN
ZAFFIRINI

The resolution was read and was adopted viva voce vote.

CO-AUTHORS OF SENATE RESOLUTION 109

On motion of Senator Brooks and by unanimous consent, Senators Truan and Zaffirini will be shown as Co-authors of S.R. 109.

**HOUSE CONCURRENT RESOLUTION 14
ON SECOND READING**

On motion of Senator Blake and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

H.C.R. 14, Reaffirming the adoption of "Texas, Our Texas" as the State song.

The resolution was read second time and was adopted viva voce vote.

SENATE RESOLUTION 116

Senator Brooks offered the following resolution:

WHEREAS, We are honored today to have as special visitors in the Senate, Ms. Emma Libson and Ms. Sasha Marks of London, England; and

WHEREAS, We desire to welcome these distinguished visitors to the Texas Capitol Building and Capital City; now, therefore, be it

RESOLVED, That their presence be recognized by the Senate of Texas and that they be extended the official welcome of the Senate.

The resolution was read and was adopted viva voce vote.

GUESTS PRESENTED

Senator Brooks introduced these visitors, accompanied by Mrs. Marilyn Schwartz of Galveston.

The Senate extended a welcome to these guests.

SENATE RULE 103 SUSPENDED

On motion of Senator Santiesteban and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Natural Resources might consider H.B. 72 upon recess today.

MOTION TO RECESS

On motion of Senator Parmer and by unanimous consent, the Senate agreed to recess after awaiting the receipt of House Messages and Conference Committee Reports.

AT EASE

The President at 11:59 a.m. announced the Senate would stand At Ease to await the receipt of Conference Committee Reports and a Message from the House.

IN LEGISLATIVE SESSION

Senator Sarpalius at 12:19 p.m. called the Senate to order as In Legislative Session.

MESSAGE FROM THE HOUSE

House Chamber
July 20, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 6, In memory of Vernon A. McGee.

S.C.R. 19, In memory of one of Texas' most outstanding citizens, Chaplain Joe P. Self, Jr.

S.C.R. 16, Recognizing National Mental Illness Week, October 4-10, 1987.

S.C.R. 23, Commending James Madison High School in San Antonio for their splendid showing at the National Skills Olympics and VICA Leadership contest.

S.C.R. 26, Commending fourteen-year old David Rotter for his heroic efforts in saving the life of Bob "Scrap" Ross from the flood-swollen Frio River.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 33**. House Conferees: Ceverha, Chairman; Hackney, Vowell, Waldrop, O. Garcia.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 56**. House Conferees: Gibson, Chairman; Larry, R. Lewis, Robnett, Wallace.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 52**. House Conferees: Toomey, Chairman; Riley, Richardson, Earley, C. Johnson.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 66**. House Conferees: Hinojosa, Chairman; Parker, Danburg, Ovard, Hury.

The House refused to concur in Senate amendments to **H.B. 146** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Ceverha, Chairman; Hightower, Burnett, Telford, Granoff.

S.C.R. 42, Directing the Senate Engrossing and Enrolling Clerk to make certain changes in **S.B. 86**.

H.C.R. 76, Requesting the Senate to return **S.B. 6** for further consideration.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

RECESS

Senator Sarpalius at 12:20 p.m. announced the Senate would recess until 3:00 p.m. today in accordance with a motion previously adopted.

AFTER RECESS

The Senate met at 3:00 p.m. and was called to order by the President.

HOUSE CONCURRENT RESOLUTION 76

The President laid before the Senate the following resolution:

H.C.R. 76, Requesting the Senate to return **S.B. 6** for further consideration.

The resolution was read.

On motion of Senator Jones and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
July 20, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 159, Relating to the duties and authority of the Harris County district attorney.

The House has concurred in Senate amendments to the following bills and resolutions by a non-record vote:

H.B. 7
H.B. 28
H.B. 95
H.C.R. 18
H.C.R. 20
H.C.R. 27

The House has concurred in Senate amendments to **H.B. 21** by a vote of 142 ayes, 1 noes, 1 present-not voting.

The House has concurred in Senate amendments to **H.B. 40** by a vote of 145 ayes, 0 noes, 1 present-not voting.

The House has concurred in Senate amendments to **H.B. 49** by a vote of 134 ayes, 3 noes, 1 present-not voting.

The House has concurred in Senate amendments to **H.B. 62** by a vote of 137 ayes, 6 noes, 1 present-not voting.

The House has concurred in Senate amendments to **H.B. 81** by a vote of 140 ayes, 0 noes, 1 present-not voting.

The House has concurred in Senate amendments to **H.B. 170** by a vote of 144 ayes, 0 noes, 1 present-not voting.

The House has concurred in Senate amendments to **H.B. 123** by a vote of 143 ayes, 1 noes, 1 present-not voting.

S.B. 34 failed on passage to 3rd Reading by a non-record vote on July 18, 1987.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 103 SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider **H.B. 10** upon recess today.

HOUSE BILL ON FIRST READING

The following bill received from the House was read the first time and referred to the Committee indicated:

H.B. 159, To Committee on State Affairs.

SENATE RESOLUTION 124

Senator Truan offered the following resolution:

S.R. 124, Creating a select committee to study the establishment of a component or components of The University of Texas System and The Texas A&M University System in South Texas.

The resolution was read and was adopted viva voce vote.

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Santiesteban submitted the following report for the Committee on Natural Resources:

H.B. 72

SENATE RULE 103 SUSPENDED

On motion of Senator Farabee and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider **H.B. 159** upon recess today.

RECESS

On motion of Senator Brooks, the Senate at 3:09 p.m. took recess until 4:00 p.m. today.

AFTER RECESS

The Senate met at 4:00 p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

House Chamber
July 20, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 64, Directing the Capitol Committee to modify implementation of the "A Walk in History" restoration project.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Farabee submitted the following report for the Committee on State Affairs:

H.B. 159

H.B. 10 (Amended)

CONFERENCE COMMITTEE ON HOUSE BILL 146

Senator McFarland called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 146** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 146** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators McFarland, Chairman; Farabee, Henderson, Glasgow and Blake.

HOUSE CONCURRENT RESOLUTION 64

The President laid before the Senate the following resolution:

H.C.R. 64, Directing The Capitol Committee, Inc., to modify implementation of the "A Walk in History" restoration project.

The resolution was read.

On motion of Senator McFarland and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

HOUSE BILL 10 ON SECOND READING

On motion of Senator Jones and by unanimous consent, all necessary rules including the printing rule were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 10, Relating to the rate of state contributions to, and the period for vesting of benefits in, the optional retirement program for faculty members at state institutions of higher education.

The bill was read second time.

Senator Jones offered the following committee amendment to the bill:

Amend **H.B. 10** by striking all below the enacting clause and substituting the following:

SECTION 1. Subdivision (8), Section 31.001, Title 110B, Revised Statutes, is amended to read as follows:

(8) "Faculty member" means a person ~~including a professional librarian,~~ who is employed by an institution of higher education on a full-time basis as:

(A) a member of the faculty ~~or staff and~~ whose duties include teaching ~~or~~ research;

(B) an administrator responsible for teaching and research faculty;

(C) a member of the administrative staff of the Texas Higher Education Coordinating Board; or

(D) a professional librarian, a president, a chancellor, a vice-president, a vice-chancellor, or other professional staff person whose national mobility requirements are similar to those of faculty members and who fill positions that are the subject of nationwide searches in the academic community; administration, or the performance of professional services, but does not mean a person employed in a position in the institution's classified personnel system or a person employed in a similar type of position if the institution does not have a classified personnel system].

SECTION 2. Section 36.101, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 36.101. ELIGIBILITY TO PARTICIPATE. (a) The governing board of each institution of higher education shall provide an opportunity to participate in the optional retirement program to all faculty members in the component institutions governed by the board.

(b) Eligibility to participate in the optional retirement program is subject to rules adopted by the Texas Higher Education Coordinating Board [governing board].

(c) A person who before September 1, 1987, had chosen to participate in the optional retirement program and who was participating in the program on September 1, 1987, is entitled to continue to participate in the program until the person terminates participation as provided by Subsection (a) of Section 36.105 of this subtitle.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 10 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 10 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 159 ON SECOND READING

On motion of Senator Blake and by unanimous consent, all necessary rules including the printing rule were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 159, Relating to the residency requirements of the initial criminal district attorney of Polk County.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 159 ON THIRD READING

Senator Blake moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 159 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 147 ON SECOND READING

On motion of Senator Lyon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 147, Relating to the municipal annexation of certain political subdivisions.

The bill was read second time.

Senator Lyon offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 147** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 3, **S.B. 1429**, Acts of the 70th Legislature, Regular Session, is amended by deleting the territory included within the following legal description:

Being part of a 592.9988 acre tract as described in a Deed from W.W. Carruth, Jr. to Moussa Development No. 3, recorded in Volume 2236 page 812 of the Collin County Land Records and being more fully described as follows:

BEGINNING at a 3/8" bridge spike found at the Southerly and Westerly most Southeast corner of the said 592.998 acre tract;

THENCE North 89 deg 47 min 59 sec West with a South line of the said 592.9988 acre tract and the North line of St. Paul Road a distance of 1805.07 ft. to a 1/2" iron rod;

THENCE South 00 deg 27 min 16 sec East a distance of 4.00 ft. to a 1/2" iron rod, said iron rod being in the North right of way line of F.M. Hwy #2514;

THENCE South 89 deg 38 min 54 sec West with the North right of way line of F.M. Hwy. #2514, a distance of 1571.30 feet to a 3/4" iron rod;

THENCE North 45 deg 00 min 41 sec West with the North right of way of F.M. Hwy #2514 to a wood right of way marker a distance of 43.79 feet;

THENCE North 00 deg 55 min 39 sec West with the Easterly most West line of the said 592.9988 acre tract and the East line of Aztec Lane a distance of 1822.68 ft to a 5/8" iron rod found;

THENCE North 00 deg 22 min 51 sec East with the Easterly most West line of the said 592.9988 acre tract and the East line of Aztec Lane a distance of 787.20 ft. to a 1/2" iron rod;

THENCE North 89 deg 40 min 45 sec East a distance of 3361.12 ft. to a 1/2" iron rod;

THENCE South 06 deg 53 min 50 sec West a distance of 438.49 ft. to a concrete Government marker #4424-8;

THENCE South 74 deg 38 min 19 sec East a distance of 64.42 ft. to a concrete Government Marker #W4424-7;

THENCE North 65 deg 14 min 21 sec East a distance of 805.52 ft. to a concrete Government Marker #4424-6;

THENCE South 32 deg 37 min 40 sec East a distance of 296.97 ft. to a concrete Government marker #4424-5;

THENCE North 84 deg 12 min 02 sec East a distance of 255.86 ft. to a concrete Government marker #4474-4;

THENCE North 41 deg 47 min 45 sec East a distance of 367.19 ft. to a concrete Government marker #4424-3;

THENCE North 77 deg 18 min 35 sec East a distance of 1317.18 ft. to a concrete Government marker #4424-2;

THENCE South 10 deg 34 min 23 sec West a distance of 600.37 ft. to a concrete Government marker #4424-1;

THENCE South 65 deg 36 min 47 sec West a distance of 1719.09 ft. to a concrete Government marker #4500-3;

THENCE North 88 deg 47 min 13 sec West a distance of 649.66 ft. to a 3/4" iron rod found;

THENCE South 00 deg 15 min 06 sec West with the East line of the 592.9988 acre tract a distance of 1310.27 ft. to a steel corner post;

THENCE North 89 deg 09 min 12 sec West with the Northern most South line of the 592.9988 acre tract a distance of 283.13 ft. to a steel corner post;

THENCE South 00 deg 07 min 22 sec West with the Westerly most East line of the 592.9988 acre tract a distance of 283.62 ft. to the place of beginning containing 258.627 acres of land.

SECTION 2. S.B. 1429, Acts of the 70th Legislature, Regular Session, as amended by this Act, takes effect on the effective date of this Act.

SECTION 3. NOTICE, ETC. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also, the legislature finds that the Texas Water Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives, within the required time. All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

The amendment was read.

Senator Sarpalius offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend H.B. 147 by adding new Sections 4 and 5 after Section 3 to read as follows, and renumbering all succeeding sections accordingly:

SECTION 4. Chapter 136, Acts of the 55th Legislature, Regular Session, 1957, is amended by adding Section 3B to read as follows:

Sec. 3B. (a) On presentation of a petition for an authorization election signed by at least five (5) percent of the qualified voters of Randall County who do not reside within the boundaries of the City of Amarillo or the South Randall County Hospital District, the Commissioners Court of Randall County shall call an election to authorize the Amarillo Hospital District to serve the residents of that designated area of Randall County and to authorize the levy of a tax to support the Hospital District in an amount of not more than seventy-five cents (75¢) on the One Hundred Dollar (\$100.00) valuation on all property in the proposed area to be

served. The election shall be held not more than sixty (60) days after the date on which the election is ordered.

(b) The ballot for the election shall be printed to permit voting for or against the proposition: "The assumption by the Amarillo Hospital District of the duty to serve Randall County residents who do not reside within the boundaries of the City of Amarillo or the South Randall County Hospital District, and the levy of annual taxes to support the Amarillo Hospital District at a rate of not more than 75¢ on each \$100 valuation of taxable property in the proposed area to be served."

(c) If a majority of the votes in the election are favorable to the proposition, the Hospital District shall, by resolution, assume the duty to serve that designated portion of Randall County and assume the responsibility of Randall County to provide medical and hospital care to the indigent and needy inhabitants of that area. In addition, the Commissioners Court of Randall County shall assess, levy, and collect a tax at a rate sufficient to pay the costs, as determined by the Board of Managers, of providing medical and hospital care to the indigent and needy inhabitants of that area. However, the tax rate may not exceed seventy-five cents (75¢) on each One Hundred Dollar (\$100.00) valuation of all property in Randall County that is not within the boundaries of the City of Amarillo or the South Randall County Hospital District.

(d) The Commissioners Court of Randall County and the governing body of the City of Amarillo, acting on behalf of the Board of Managers, may agree on terms under which the Commissioners Court of Randall County may participate in the operation of the Hospital District.

(e) On presentation of a petition for a discontinuation election signed by at least five percent of the qualified voters of the area receiving services under this section, the Commissioners Court of Randall County shall call an election to discontinue the provision of services by the Hospital District and the levy of taxes to support the Hospital District. The election shall be held not more than 60 days after the date on which the election is ordered. The ballot for the proposition shall be printed to provide for voting for or against the proposition: "Discontinuation by the Amarillo Hospital District of the duty to provide services and discontinuation of the levy of taxes to support the district." If a majority of the votes in the election are favorable to the proposition, the Hospital District is relieved of the duty to provide medical and hospital care to the Randall County area's indigent and needy inhabitants under this section and shall cease to provide the services. However, the Hospital District is entitled to receive taxes from that area in an amount sufficient to pay for expenses incurred by the Hospital District in serving area residents before the date on which the Hospital District discontinued the services.

(f) Section 41.001(a), Election Code, does not apply to an election ordered under this section. Except as provided by this subsection, an election under this section shall be held in accordance with the applicable provisions of the Election Code.

SECTION 5. Section 4 of this Act takes effect on the date on which the constitutional amendment proposed by the 70th Legislature, 2nd Called Session, authorizing the Amarillo Hospital District to provide services to certain residents of Randall County and authorizing Randall County to provide financial assistance to the district takes effect. If the amendment is not approved by the voters, Section 2 of this Act has no effect.

The amendment was read and was adopted viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment was adopted viva voce vote.

On motion of Senator Lyon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 147 ON THIRD READING

Senator Lyon moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 147 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 72 ON SECOND READING

On motion of Senator Montford and by unanimous consent, all necessary rules including the printing rule were suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 72, Relating to the issuance of Texas water development bonds.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 72 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 72 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed viva voce vote.

BILLS AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolution:

H.B. 33
H.B. 39
H.B. 71
H.B. 80
H.B. 126
H.B. 135
H.B. 166
H.J.R. 5

HOUSE BILL 119 ON THIRD READING

On motion of Senator Washington and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

H.B. 119, Relating to the authority of a commissioners court of a county to engage in community and economic development projects.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 119** by adding the following new section appropriately numbered to read as follows:

SECTION _____. Title 28, Revised Statutes, is amended by adding Article 1118x-1 to read as follows:

Art. 1118x-1. EXPANDED TRANSPORTATION SALES TAX REVENUES

Sec. 1. DEFINITIONS. In this article:

(1) "Local sales and use tax" means a sales and use tax adopted by a transportation authority other than an authority that is authorized under Section 6C(e) of Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), to include regional development facilities in its station or terminal complex and for which the tax base is the same or substantially the same as the tax base for the sales and use tax imposed by Chapter 151, Tax Code.

(2) "Transportation authority" means an authority as defined by Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), in which the principal city has a population of less than 1,200,000, according to the most recent federal census, other than an authority that is authorized under Section 6C(e), Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), to include regional economic development facilities in its station or terminal complex.

(3) "Transportation project" means the construction, acquisition, repair, or improvement of facilities used primarily in the provision of mass transit services, the construction, acquisition, maintenance, or rehabilitation of a bridge, federally designated or state highway, or major arterial or thoroughfare, public road or street designated as such in a regional transportation plan adopted by a regional planning commission, council of governments, or other regional planning agency created under Chapter 570, Acts of the 59th Legislature, Regular Session, 1965 (Article 1011m, Vernon's Texas Civil Statutes), or the acquisition of property or an option to purchase property for any of those purposes.

(4) "Economic development" means action undertaken to help create new jobs, maintain existing jobs, or generally improve the conditions under which the local economy may prosper.

Sec. 2. EXPANDED TAX BASE INDEX. (a) As soon as practicable after the 18th month after the month in which this article takes effect, the comptroller shall compute an expanded tax base index for each transportation authority that imposes a local sales and use tax on the date the session of the legislature ends.

(b) The expanded tax base index for a transportation authority is a fraction, expressed as a percentage and rounded down to the nearest one-tenth of one percent:

(1) the numerator of which is the total taxable value of the sale, use, storage, and other consumption of all items that:

(A) are subject to the local sales and use tax for the year after the effective date of the article or articles of **H.B. No. 61**, 70th Legislature, 2nd Called Session, 1987, that increase the tax base; and

(B) were not subject to the tax before the effective date of this article; and

(2) the denominator of which is the total taxable value of the sale, use, storage, or other consumption of all items subject to the local sales and use tax for the year after the effective date of this article or articles that increase the tax base.

(c) The comptroller shall establish each expanded tax base index using generally accepted statistical techniques and any relevant information available to the comptroller.

Sec. 3. NET REVENUE FROM EXPANDED TAX BASE. Beginning on the first day of the next calendar quarter that begins at least 30 days after the date the comptroller computes the expanded tax base index for a transportation authority, the comptroller shall retain from the transportation authority's total share of its local sales and use tax revenue the expanded tax base index percentage of that revenue. The percentage of the tax revenue retained is the net expanded tax base revenue of the authority.

Sec. 4. INDEX ADJUSTMENT. As soon as practicable after September 1 of each odd-numbered year after the year in which the comptroller begins to retain a portion of a transportation authority's share of its tax revenue under Section 3 of this article, the comptroller shall recompute the expanded tax base index of the transportation authority, taking into account actual economic experience. The comptroller shall also adjust the expanded tax base index recomputed under this section as necessary to provide that the authority receives during the state fiscal biennium in which the index is recomputed an additional amount of its sales and use tax revenue equal to the amount of sales and use tax revenue, if any, that the authority did not receive in the preceding state fiscal biennium because the index for the preceding biennium did not accurately reflect actual economic experience for that biennium. After recomputing the index, the comptroller shall compute the net expanded tax base revenue subsequently retained from the authority's share of its tax revenues under Section 3 of this article using the recomputed index.

Sec. 5. ALLOCATION OF NET EXPANDED TAX BASE REVENUE IN CERTAIN AUTHORITIES. At the time the comptroller transmits to a transportation authority under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), the authority's share of the local sales and use tax revenue not retained as net expanded tax base revenue, the comptroller shall transmit the total amount of the net expanded tax base revenue, after deducting the charge provided by Section 7 of this article, if applicable, to the municipalities and counties having territory in the authority as follows:

(1) the percentage of the net expanded tax base revenue equal to the percentage of the local sales and use tax revenue of the authority that is collected from retailers located within the municipalities having territory in the authority shall be allocated to the municipalities in proportion to the amount of local sales and use tax revenue of the authority collected from retailers located within the boundaries of each municipality; and

(2) the remainder shall be allocated to the counties having territory in the authority in proportion to the amount of local sales and use tax revenue of the authority collected from retailers located within the boundaries of each county but not within the corporate limits of a municipality.

Sec. 6. USE OF REVENUE. (a) For any transportation authority, the net expanded tax base revenue transferred to a municipality or county under this section may be used only for transportation projects and for costs incurred in connection with transportation projects, including the costs of planning, design, engineering, legal, or other services and the costs of acquiring real property or materials. A municipality or county may not spend net expanded tax base revenue on a project not located wholly in both the municipality or county and area of the transportation authority from which the net expanded tax base revenue is collected unless the governing body of the municipality or county by resolution finds that the project will provide substantial benefits to persons residing in both the municipality or county and the area of the transportation authority from which the net expanded tax base revenue is collected.

(b) Notwithstanding Subsection (a) of this section, for any transportation authority confirmed in a tax election after July 1, 1985, and located wholly or partly

in a coastal county, the net expanded tax base revenue transferred to a municipality or county under this section may be used only for the purpose of economic development.

Sec. 7. CHARGE FOR COMPTROLLER'S SERVICE. (a) In addition to any other amount provided by law to be deducted from the sales and use tax revenue of a transportation authority, for the first four years after the comptroller begins to retain the net expanded tax base revenue of a transportation authority as provided by Section 3 of this article, the comptroller shall deduct three percent of that revenue as a charge by the state for the comptroller's services in administering this article.

(b) An amount deducted under this section shall be deposited by the comptroller in the state treasury to the credit of the general revenue fund.

Sec. 8. SUBSEQUENT CHANGE IN TAX RATE. If the rate of the local sales and use tax of a transportation authority to which this article applies is increased or decreased after the comptroller computes the authority's expanded tax base index under Section 2 of this article, the comptroller shall continue to compute the amount retained from the authority's share of its tax revenue after the date the increased or decreased tax rate takes effect as provided by this article.

TRUAN
BARRIENTOS

The amendment was read and by unanimous consent was adopted viva voce vote.

Senator Edwards offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 119**, by adding a new section, appropriately numbered, to read as follows:

SECTION _____. Section 321.101(b), Tax Code, as added by **S.B. No. 888**, Acts of the 70th Legislature, Regular Session, 1987, to take effect September 1, 1987, is amended to read as follows:

(b) A municipality that is not disqualified may, by a majority vote of the qualified voters of the municipality voting at an election held for that purpose, adopt an additional sales and use tax for the benefit of the municipality in accordance with this chapter. A municipality is disqualified from adopting the additional sales and use tax if the municipality:

(1) is included within the boundaries of a rapid transit authority created under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes);

(2) is included within the boundaries of a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), by a principal city having a population of less than 800,000;

(3) is wholly or partly located in a county that contains territory within the boundaries of a regional transportation authority created under Chapter 683, Acts of the 66th Legislature, Regular Session, 1979 (Article 1118y, Vernon's Texas Civil Statutes), by a principal city having a population in excess of 800,000, unless:

(A) the city is a contiguous city; or

(B) the municipality is not included within the boundaries of the authority and is located wholly or partly in a county in which fewer than 250 persons are residents of both the county and the authority according to the most recent federal census; or

(4) imposes a tax authorized by Article 1118z, Revised Statutes.

The amendment was read and by unanimous consent was adopted viva voce vote.

On motion of Senator Washington and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was again finally passed viva voce vote.

SENATE RESOLUTION 123

Senator Parker offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to honor one of everybody's favorite people, Senator Gonzalo Barrientos, on the occasion of his 46th birthday; and

WHEREAS, During his tenure in the Texas Senate, Senator Barrientos has endeared himself to his colleagues and Senate staffers alike for his unfailing courtesy, charm, and much anticipated Valentine's Day party; and

WHEREAS, Committed to the welfare of the people of Travis and Hays counties, his open door policy has encouraged citizens from all walks of life to consider him a close personal friend and court of last resort; and

WHEREAS, His eloquent and passionate advocacy on behalf of our state's often forgotten and powerless citizens—the elderly, minorities, and the young—is legendary; and

WHEREAS, Hardworking and tireless in his quest to do the best for his beloved state, his work on the Education, Intergovernmental Relations, and State Affairs committees has benefitted all Texans; and

WHEREAS, Very definite assets in his distinguished political career have been his charming wife, Emma, and seasoned political pros Joseph, Angelina, Alicia, Veronica, and Adelita; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, 2nd Called Session, hereby extend sincere birthday greetings with many happy returns to the Senator from District 14; and, be it further

RESOLVED, That a copy of this resolution be prepared for him as an expression of highest esteem, respect, and affection from the Texas Senate. Feliz cumpleaños, nuestro compadre.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

The resolution was adopted viva voce vote.

SENATE RESOLUTION 127

Senator Brooks offered the following resolution:

S.R. 127, Directing the Senate Committee on Health and Human Services to include certain matters in its interim activities.

The resolution was read and was adopted viva voce vote.

RECESS

On motion of Senator Brooks, the Senate at 4:34 p.m. took recess until 6:00 p.m. today.

AFTER RECESS

The Senate met at 6:00 p.m. and was called to order by the President.

**CONFERENCE COMMITTEE REPORT
SENATE BILL 56**

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
July 20, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 56 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

FARABEE
HARRIS
CAPERTON
JONES
LEEDOM

On the part of the Senate

GIBSON
LARRY
ROBNETT
R. LEWIS
WALLACE

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the authorization, issuance, examination, approval, registration, and recording of certain bonds and other obligations by public entities, including the State Treasurer, and investment by the State Treasurer of proceeds of obligations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. AMENDMENTS TO TREASURY ACT

SECTION 1.001. Subsections (b), (d), (f), (i), and (j), Section 3.043, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) In this section:

(1) "Committee" means the cash management committee.

(2) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase tax and revenue anticipation notes, purchase or sale agreement, forward payment conversion agreement, contract providing for payments based on levels of or changes in interest rates or currency exchange rates, or commitment or other contract or agreement approved by the treasurer in connection with the authorization, issuance, security, exchange, payment, purchase, or redemption of an obligation, interest on an obligation, or both.

(3) "Temporary cash shortfall" means the cumulative cash flow deficit at any time during a period within a fiscal year in which the cash balance of taxes and revenues in the General Revenue Fund, as projected by the treasurer, is insufficient to honor the authorized expenditures from that fund during that period and to establish an amount reasonably required as a cash balance in the General Revenue Fund.

(4) [(3)] "Tax and revenue anticipation notes" and "notes" mean notes issued under this section. The terms include any obligations under credit agreements entered into by the treasurer in connection with the issuance of the notes.

(d) In anticipation of a temporary cash shortfall in the General Revenue Fund during any fiscal year, the treasurer, subject to Subsection (e) of this section, may issue, sell, and deliver tax and revenue anticipation notes on behalf of the state. The notes are not subject to review by the bond review board created by Senate Bill 1027, Acts of the 70th Legislature, Regular Session, 1987. The sum of (1) the total amount of the notes outstanding and (2) the total outstanding liability of the General Revenue Fund under Article 4344c, Revised Statutes, may not at any time exceed 25 [20] percent of the taxes and revenues to be credited to the General Revenue Fund for the fiscal year as determined by the treasurer, based on the certification made by the comptroller in the enactment of the General Appropriations Act applicable to that fiscal year. Tax and revenue anticipation notes are not debts of the state within the meaning of any state constitutional prohibition. The notes may be used solely to coordinate the state's cash flow within each fiscal year. All notes must mature and be paid in full during the fiscal year in which they were issued. The notes must be signed by the governor. The interest rate on the notes must be set so that the amount equal to the total amount of interest to be paid on the notes plus the costs of issuance of the notes does not exceed the amount of interest that would be paid on the notes if the interest rate on the notes were one percent less than the average interest yield being earned on funds invested by the treasurer as of the date of the notes' issuance, as computed by the treasurer.

(f) The treasurer, consistent with the committee's determinations under Subsection (e) of this section, shall authorize the issuance, sale, and delivery of the notes by order. Except as otherwise provided by this subsection, the [The] proceeds of the notes shall be deposited in a special fund in the treasury called the tax and revenue anticipation note fund. The treasurer may pay the costs of issuance of the notes from the fund and, with notice to the comptroller, from time to time shall transfer the net proceeds to the General Revenue Fund to honor authorized expenditures from the General Revenue Fund. The treasurer may invest any funds held in the tax and revenue anticipation note fund in the authorized investments described in Section 2.014, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes), until used in accordance with this section. Proceeds of a credit agreement may be deposited as directed by the treasurer pursuant to the order authorizing the credit agreement and may be applied to pay the principal of and interest on the notes.

(i) On payment in full of all outstanding notes, all required rebates to the federal government, and all costs of issuance of the notes, the treasurer, with notice to the comptroller, shall transfer to the General Revenue Fund any amounts remaining in the tax and revenue anticipation note fund. To the extent that the amounts credited to the tax and revenue anticipation note fund are insufficient to pay the principal, premium, if any, [and] interest on the notes, and any required rebate to the federal government when due, and any issuance costs related to the notes, amounts in the General Revenue Fund are available for appropriation by the legislature to make those payments. Amounts in the tax and revenue anticipation note fund are available for appropriation by the legislature to carry out the purposes of this section.

(j) Amounts in the tax and revenue anticipation note fund may be pledged to secure payment of the notes and performance of [the other] obligations under credit agreements relating to the notes and may be used to pay required rebates to the federal government. The treasurer may make covenants to carry out the purposes of this section and take other actions necessary, desirable, or appropriate to complete the issuance of the notes. The state pledges to and agrees with the holders of any notes that the state will not limit or alter the rights vested in the treasurer to fulfill the terms of any agreements made with the holders, or in any way impair the rights and remedies of the holders, until the notes are fully discharged.

SECTION 1.002. Section 2.014, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (f) to read as follows:

(f) The treasurer may invest the gross proceeds from obligations of this state or any agency of this state in:

(1) obligations of a state or an agency, county, city, or other political subdivision of a state; and

(2) mutual funds composed of obligations described by Subdivision (1).

ARTICLE 2. AMENDMENTS TO GOVERNMENT CODE

SECTION 2.001. Section 404.121, Government Code, is amended to read as follows:

Sec. 404.121. DEFINITIONS. In this subchapter:

(1) "Committee" means the cash management committee.

(2) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase tax and revenue anticipation notes, purchase or sale agreement, forward payment conversion agreement, contract providing for payments based on levels of or changes in interest rates or currency exchange rates, or commitment or other contract or agreement approved by the treasurer in connection with the authorization, issuance, security, exchange, payment, purchase, or redemption of an obligation, interest on an obligation, or both.

(3) "Tax and revenue anticipation notes" and "notes" mean notes issued under this section, including any obligations under credit agreements entered into by the treasurer in connection with the issuance of the notes.

(4) ~~(3)~~ "Temporary cash shortfall" means the cumulative cash flow deficit at any time during a period within a fiscal year in which the cash balance of taxes and revenues in the general revenue fund, as projected by the treasurer, is insufficient to honor the authorized expenditures from that fund during that period and to establish an amount reasonably required as a cash balance in the general revenue fund.

SECTION 2.002. Subsection (b), Section 404.123, Government Code, is amended to read as follows:

(b) The sum of the total amount of the notes outstanding and the total outstanding liability of the general revenue fund under Section 403.092 may not at any time exceed 25 ~~20~~ percent of the taxes and revenues to be credited to the general revenue fund for the fiscal year as determined by the treasurer, based on the certification made by the comptroller in the enactment of the General Appropriations Act applicable to that fiscal year.

SECTION 2.003. Subsections (b) and (e), Section 404.125, Government Code, are amended to read as follows:

(b) Except as otherwise provided by this subsection, the ~~The~~ proceeds of the notes shall be deposited in a special fund in the treasury called the tax and revenue anticipation note fund. The treasurer may pay the costs of issuance of the notes from the fund and, with notice to the comptroller, from time to time shall transfer the net proceeds to the general revenue fund to honor authorized expenditures from the general revenue fund. The treasurer may invest any funds held in the tax and revenue anticipation note fund in the authorized investments described in Section 404.024 until used in accordance with this section. Proceeds of a credit agreement may be deposited as directed by the treasurer pursuant to the order authorizing the credit agreement and may be applied to pay the principal of and interest on the notes.

(e) Amounts in the tax and revenue anticipation note fund may be pledged to secure payment of the notes and performance of ~~the other~~ obligations under credit agreements relating to the notes and may be used to pay required rebates to

the federal government. The treasurer may make covenants to carry out the purposes of this subchapter and take other actions necessary, desirable, or appropriate to complete the issuance of the notes. The state pledges to and agrees with the holders of any notes that the state will not limit or alter the rights vested in the treasurer to fulfill the terms of any agreements made with the holders, or in any way impair the rights and remedies of the holders, until the notes are fully discharged.

SECTION 2.004. Subsection (c), Section 404.126, Government Code, is amended to read as follows:

(c) On payment in full of all outstanding notes, all required rebates to the federal government, and all costs of issuance of the notes, the treasurer, with notice to the comptroller, shall transfer to the general revenue fund any amounts remaining in the tax and revenue anticipation note fund. To the extent that the amounts credited to the tax and revenue anticipation note fund are insufficient to pay the principal, premium, if any, [and] interest on the notes, and any required rebate to the federal government when due, and any issuance costs related to the notes, amounts in the general revenue fund are available for appropriation by the legislature to make those payments. Amounts in the tax and revenue anticipation note fund are available for appropriation by the legislature to carry out the purposes of this subchapter.

SECTION 2.005. Section 404.024, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The treasurer may invest the gross proceeds from obligations of this state or any agency of this state in:

(1) obligations of a state or an agency, county, city, or other political subdivision of a state; and

(2) mutual funds composed of obligations described by Subdivision (1).

SECTION 2.006. Section 404.123, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The notes are not subject to review by the bond review board created by Senate Bill 1027, Acts of the 70th Legislature, Regular Session, 1987.

ARTICLE 3. BOND APPROVAL

SECTION 3.001. DEFINITIONS. (a) In this article:

(1) "Bond" means any bond, note, certificate of obligation, or other obligation that is issued or incurred by an issuer in the exercise in whole or in part of its borrowing power, regardless of whether it is subject to annual appropriation, and is represented by an instrument issued in bearer or registered form or not represented by an instrument but the transfer of which is registered on books maintained for the purpose by or on behalf of the issuer.

(2) "Issuance" means the initial delivery by the issuer of evidence of the obligation of the bond to the initial purchaser in exchange for the purchase price of the bond.

(3) "Issuer" means any department, board, authority, agency, subdivision, municipal corporation, district, public corporation, political subdivision, body politic, or instrumentality of this state of every kind or type and any nonprofit corporation acting for or on behalf of any of those entities.

(b) The attorney general may determine by application of accepted legal principles the meaning of terms used but not defined by this article and may by rule define those terms in accordance with that determination.

SECTION 3.002. SUBMISSION, APPROVAL, AND REGISTRATION OF BONDS. (a) Notwithstanding any other law and except as provided by Section 3.003 of this article, before the issuance of bonds by an issuer, the bonds and the record of proceedings of the issuer relating to authorization of the bonds shall be submitted to the attorney general for approval.

(b) If the attorney general finds that the bonds have been authorized to be issued in accordance with law, the attorney general shall approve the bonds and deliver to the comptroller a copy of the legal opinion of the attorney general stating that approval and the record of proceedings relating to the authorization of the bonds.

(c) On receipt of the legal opinion of the attorney general and the record of proceedings relating to the authorization of the bonds, the comptroller shall register the bonds and the record of proceedings relating to the authorization of the bonds.

(d) After approval by the attorney general and registration by the comptroller and on issuance, the bonds are valid, enforceable, and incontestable in any court or other forum for any reason and are binding obligations according to their terms for all purposes.

(e) The requirements of this section are cumulative of all other law requiring submission of bonds to any other agency, commission, or instrumentality of the state.

(f) This article shall not be construed in a manner that prevents the issuance of bonds in book-entry form to the extent authorized by other provisions of law.

(g) The governing body of an issuer that is a municipal corporation, political subdivision of this state, or an instrumentality of either of those entities shall have the exclusive authority to select and contract with legal counsel, underwriters, financial advisors, or other providers of service in connection with issuance of its bonds and other obligations as it determines necessary, notwithstanding any general or special law or charter provision to the contrary.

SECTION 3.003. EXEMPTIONS FROM REQUIREMENT OF SUBMISSION AND APPROVAL. (a) The following are exempt from the requirements of Section 3.002 of this article:

(1) a bond that is:

(A) payable only out of current revenues or taxes collected in the year of issuance of the bond or the proceeds of other bonds and by its terms is not subject to mandatory renewal or renewal at the option of the issuer, the holder, the bearer, or any other party;

(B) a certificate in evidence of benefit assessments;

(C) a certificate of obligation authorized to be delivered to a contractor, including claims and accounts representing an undivided interest therein, as authorized by the Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271, Local Government Code); and

(D) a time warrant under Chapter 252 or 262, Local Government Code;

(2) a bond authorized by the provisions of Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes);

(3) any lease, lease-purchase, or installment sale obligation; and

(4) any other bond that the attorney general exempts by rule for the reason that it is not practical to require such approval before issuance.

(b) The exemptions provided by Subsection (a) of this section shall be construed narrowly, and, in the case of any bond, all the provisions of this article shall be construed in a manner requiring compliance with Section 3.002 of this article unless this section expressly provides an exemption.

(c) Notwithstanding the provisions of Subsection (a) of this section, the issuer of any bond described by that subsection may submit the bond in compliance with Section 3.002 of this article.

SECTION 3.004. ISSUANCE OF BONDS MUST COMPLY. The issuance of bonds by or on behalf of an issuer without complying with this article is prohibited.

SECTION 3.005. APPLICATION. This article applies only to bonds issued on or after November 1, 1987. Bonds issued before November 1, 1987, are governed

by the law in effect when the bonds were issued, and that law is continued in effect for that purpose.

ARTICLE 4. TRANSITION AND EMERGENCY

SECTION 4.001. (a) Articles 1, 3, and 4 of this Act take effect immediately on its passage.

(b) Article 2 of this Act takes effect September 1, 1987.

(c) Subsections (b), (d), (f), (i), and (j), Section 3.043, and Subsection (f), Section 2.014, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes), as amended by this Act, are repealed September 1, 1987.

SECTION 4.002. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

MESSAGE FROM THE HOUSE

House Chamber
July 20, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House reconsidered the vote by which **S.B. 6** was finally passed, and then finally passed **S.B. 6** as amended.

The House has concurred in Senate amendments to the following House Bills by a non-record vote:

H.B. 101
H.B. 117
H.B. 167

The House has concurred in Senate amendments to **H.B. 177** by a record vote of 105 ayes, 44 noes, 0 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.C.R. 6
S.C.R. 16
S.C.R. 19
S.C.R. 23
S.C.R. 26
S.C.R. 42
S.B. 17
S.B. 79
S.B. 86

RECESS

On motion of Senator Brooks, the Senate at 6:03 p.m. took recess until 7:00 p.m. today.

AFTER RECESS

The Senate met at 7:00 p.m. and was called to order by the President.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 56 ADOPTED**

Senator Farabee called from the President's table the Conference Committee Report on S.B. 56. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Farabee, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE BILL 6 WITH HOUSE AMENDMENT

Senator Jones called S.B. 6 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amending on third reading - Rudd

Amend S.B. 6 by adding an appropriately numbered section to read as follows:

SECTION . In addition to amounts otherwise appropriated to the Texas Department of Commerce, for the biennium ending August 31, 1989, there is appropriated to that department all revenues accruing to the special account created under Section 156.251(d), Tax Code, for the purposes of media advertising and other marketing activities designed to increase tourism in this state.

The amendment was read.

Senator Jones moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

RECESS

On motion of Senator Brooks, the Senate at 7:06 p.m. took recess until 9:00 p.m. today.

AFTER RECESS

The Senate met at 9:00 p.m. and was called to order by the President.

**CONFERENCE COMMITTEE REPORT
SENATE BILL 66**

Senator Parmer submitted the following Conference Committee Report:

Austin, Texas
July 20, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 66 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

PARMER
HENDERSON
LYON
McFARLAND
ZAFFIRINI

On the part of the Senate

HINOJOSA
DANBURG
HURY
OVARO

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the testimony of a child who is an alleged victim of certain criminal offenses and to testing for acquired immune deficiency syndrome to protect child victims and health care personnel.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 38.071, Code of Criminal Procedure, as amended by H.B. No. 2146, 70th Legislature, Regular Session, 1987, is amended to read as follows:

Art. 38.071. TESTIMONY OF CHILD WHO IS VICTIM OF OFFENSE

Sec. 1. This article applies only to a proceeding in the prosecution of an offense defined by any of the following sections of the Penal Code if the offense is; including but not limited to an offense under Chapter 21, Penal Code, as amended; or Section 43.25, Penal Code, as amended;] alleged to have been committed against a child 12 years of age or younger and if the trial court finds that the child is unavailable to testify at the trial of the offense, and applies only to the statements or testimony of that child:

- (1) Section 21.11 (Indecency with a Child);
- (2) Section 22.011 (Sexual Assault);
- (3) Section 22.02 (Aggravated Assault);
- (4) Section 22.021 (Aggravated Sexual Assault);
- (5) Section 22.04(b) (Injury to a Child or an Elderly Individual);
- (6) Section 22.04(c) (Injury to a Child or an Elderly Individual), if the conduct is committed intentionally or knowingly;
- (7) Section 25.02 (Incest);
- (8) Section 25.06 (Solicitation of a Child), if the offense is a felony of the third degree; or
- (9) Section 43.25 (Sexual Performance by a Child).

Sec. 2. (a) The recording of an oral statement of the child made before the indictment is returned or the complaint has been filed is admissible into evidence if the court makes a determination that the factual issues of identity or actual occurrence were fully and fairly inquired into in a detached manner by a neutral individual experienced in child abuse cases that seeks to find the truth of the matter.

(b) If a recording is made under Subsection (a) of this section and after an indictment is returned or a complaint has been filed, by motion of the attorney representing the state or the attorney representing the defendant and on the approval of the court, both attorneys may propound written interrogatories that shall be presented by the same neutral individual who made the initial inquiries, if possible, and recorded under the same or similar circumstances of the original recording with the time and date of the inquiry clearly indicated in the recording.

(c) A recording made under Subsection (a) of this section is not admissible into evidence unless a recording made under Subsection (b) is admitted at the same time if a recording under Subsection (b) was requested prior to time of trial. [The recording of an oral statement of the child made before the proceeding begins is admissible into evidence if:

(1) no attorney for either party was present when the statement was made;
(2) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(3) the recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and has not been altered;

(4) the statement was not made in response to questioning calculated to lead the child to make a particular statement;

(5) every voice on the recording is identified;

(6) the person conducting the interview of the child in the recording is present at the proceeding and available to testify or be cross-examined by either party;

(7) the defendant or the attorney for the defendant is afforded an opportunity to view the recording before it is offered into evidence; and

(8) the child is available to testify;

(b) If the electronic recording of the oral statement of a child is admitted into evidence under this section, either party may call the child to testify, and the opposing party may cross-examine the child].

Sec. 3. (a) On its own motion or on the motion of the attorney representing the state or the attorney representing the defendant, the [The] court may[; on the motion of the attorney for any party;] order that the testimony of the child be taken during the trial in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court, the court reporter, and the finder of fact [in the proceeding]. To the extent practicable, only [Only] the judge, the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence would contribute to the welfare and well-being of the child may be present in the room with the child during his testimony. Only the attorneys and the judge may question the child. To the extent practicable, the [Any] persons necessary to operate the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child and to communicate contemporaneously with his attorney during periods of recess or by audio contact [in person], but the court shall attempt to ensure that the child cannot hear or see the defendant. The court shall permit the attorney for the defendant adequate opportunity to confer with the defendant during cross-examination of the child. On application of the attorney for the defendant, the court may recess the proceeding before or during cross-examination of the child for a reasonable time to allow the attorney for the defendant to confer with defendant.

(b) The court may set any other conditions and limitations on the taking of the testimony that it finds just and appropriate, taking into consideration the interests of the child, the rights of the defendant, and any other relevant factors.

Sec. 4. (a) After an indictment has been returned or a complaint filed charging the defendant with an offense to which this article applies, on its own motion or on the motion of the attorney representing the state or the attorney representing the defendant, the [The] court may[; on the motion of the attorney for any party;] order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact [in the proceeding]. To the extent practicable, only [Only] those persons permitted to

be present at the taking of testimony under Section 3 of this article may be present during the taking of the child's testimony, and the persons operating the equipment shall be confined from the child's sight and hearing as provided by Section 3. The court shall permit the defendant to observe and hear the testimony of the child and to communicate contemporaneously with his attorney during periods of recess or by audio contact [in person,] but shall attempt to ensure that the child cannot hear or see the defendant.

(b) The court may set any other conditions and limitations on the taking of the testimony that it finds just and appropriate, taking into consideration the interests of the child, the rights of the defendant, and any other relevant factors. The court shall also ensure that:

(1) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(2) the recording equipment was capable of making an accurate recording, the operator was competent, the quality of the recording is sufficient to allow the court and the finder of fact to assess the demeanor of the child and the interviewer, and the recording is accurate and is not altered;

(3) each voice on the recording is identified; [and]

(4) the defendant, the attorneys for each party, and the expert witnesses for each party are [is] afforded an opportunity to view the recording before it is shown in the courtroom;

(5) before giving his testimony, the child was placed under oath or was otherwise admonished in a manner appropriate to the child's age and maturity to testify truthfully;

(6) the court finds from the recording or through an in camera examination of the child that the child was competent to testify at the time the recording was made; and

(7) only one continuous recording of the child was made or the necessity for pauses in the recordings or for multiple recordings is established at trial.

(c) After a complaint has been filed or an indictment returned charging the defendant, on the motion of the attorney representing the state, the court may order that the deposition of the child be taken outside of the courtroom in the same manner as a deposition may be taken in a civil matter. A deposition taken under this subsection is admissible into evidence.

Sec. 5. (a) On the motion of the attorney representing the state or the attorney representing the defendant and on a finding by the trial court that the following requirements have been substantially satisfied, the recording of an oral statement of the child made before a complaint has been filed or an indictment returned charging any person with an offense to which this article applies is admissible into evidence if:

(1) no attorney or peace officer was present when the statement was made;

(2) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(3) the recording equipment was capable of making an accurate recording, the operator of the equipment was competent, the quality of the recording is sufficient to allow the court and the finder of fact to assess the demeanor of the child and the interviewer, and the recording is accurate and has not been altered;

(4) the statement was not made in response to questioning calculated to lead the child to make a particular statement;

(5) every voice on the recording is identified;

(6) the person conducting the interview of the child in the recording is expert in the handling, treatment, and investigation of child abuse cases, present at the proceeding, called by the state as part of the state's case in chief to testify at trial, and subject to cross-examination;

(7) immediately after a complaint was filed or an indictment returned charging the defendant with an offense to which this article applies, the attorney representing the state notified the court, the defendant, and the attorney representing the defendant of the existence of the recording and that the recording may be used at the trial of the offense;

(8) the defendant, the attorney for the defendant, and the expert witnesses for the defendant were afforded an opportunity to view the recording before it is offered into evidence and, if a proceeding was requested as provided by Subsection (b) of this section, in a proceeding conducted before a district court judge but outside the presence of the jury were afforded an opportunity to cross-examine the child as provided by Subsection (b) of this section from any time immediately following the filing of the complaint or the returning of an indictment charging the defendant with an offense to which this article applies until the date the trial begins;

(9) the recording of the cross-examination, if there is one, is admissible under Subsection (b) of this section;

(10) before giving his testimony, the child was placed under oath or was otherwise admonished in a manner appropriate to the child's age and maturity to testify truthfully;

(11) the court finds from the recording or through an in camera examination of the child that the child was competent to testify at the time that the recording was made; and

(12) only one continuous recording of the child was made or the necessity for pauses in the recordings or for multiple recordings has been established at trial.

(b) On the motion of the attorney representing the defendant, a district court may order that the cross-examination of the child be taken and be recorded before the judge of that court at any time until a recording made in accordance with Subsection (a) of this section has been introduced into evidence at the trial. On a finding by the trial court that the following requirements were satisfied, the recording of the cross-examination of the child is admissible into evidence and shall be viewed by the finder of fact only after the finder of fact has viewed the recording authorized by Subsection (a) of this section if:

(1) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(2) the recording equipment was capable of making an accurate recording, the operator of the equipment was competent, the quality of the recording is sufficient to allow the court and the finder of fact to assess the demeanor of the child and the attorney representing the defendant, and the recording is accurate and has not been altered;

(3) every voice on the recording is identified;

(4) the defendant, the attorney representing the defendant, the attorney representing the state, and the expert witnesses for the defendant and the state were afforded an opportunity to view the recording before the trial began;

(5) the child was placed under oath before the cross-examination began or was otherwise admonished in a manner appropriate to the child's age and maturity to testify truthfully; and

(6) only one continuous recording of the child was made or the necessity for pauses in the recordings or for multiple recordings was established at trial.

(c) During cross-examination under Subsection (b) of this section, to the extent practicable, only a district court judge, the attorney representing the defendant, the attorney representing the state, persons necessary to operate the equipment, and any other person whose presence would contribute to the welfare and well-being of the child may be present in the room with the child during his testimony. Only the attorneys and the judge may question the child. To the extent practicable, the persons operating the equipment shall be confined to an adjacent

room or behind a screen or mirror that permits them to see and hear the child during his testimony but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child and to communicate contemporaneously with his attorney during periods of recess or by audio contact, but shall attempt to ensure that the child cannot hear or see the defendant.

(d) Under Subsection (b) of this section the district court may set any other conditions and limitations on the taking of the cross-examination of a child that it finds just and appropriate, taking into consideration the interests of the child, the rights of the defendant, and any other relevant factors.

Sec. 6. If the court orders the testimony of a child to be taken under Section 3 or 4 of this article or if the court finds the testimony of the child taken under Section 2 or 5 of this article is admissible into evidence, the child may not be required to testify in court at the proceeding for which the testimony was taken, unless the court finds there is good cause.

Sec. 7. In making any determination of good cause under this article, the court shall consider the rights of the defendant, the interests of the child, the relationship of the defendant to the child, the character and duration of the alleged offense, any court finding related to the availability of the child to testify, the age, maturity, and emotional stability of the child, the time elapsed since the alleged offense, and any other relevant factors.

Sec. 8. (a) In making a determination of unavailability under this article, the court shall consider relevant factors including the relationship of the defendant to the child, the character and duration of the alleged offense, the age, maturity, and emotional stability of the child, and the time elapsed since the alleged offense, and whether the child is more likely than not to be unavailable to testify because:

(1) of emotional or physical causes, including the confrontation with the defendant or the ordinary involvement as complainant in the courtroom trial; or
(2) the child would suffer undue psychological or physical harm through his involvement at trial.

(b) A determination of unavailability under this article can be made after an earlier determination of availability. A determination of availability under this article can be made after an earlier determination of unavailability.

Sec. 9. If the court finds the testimony taken under Section 2 or 5 of this article is admissible into evidence or if the court orders the testimony to be taken under Section 3 or 4 of this article and if the identity of the perpetrator is a contested issue, the child additionally must make an in-person identification of the defendant either at or before trial.

Sec. 10. In ordering a child to testify under this article, the court shall take all reasonable steps necessary and available to minimize undue psychological trauma to the child and to minimize the emotional and physical stress to the child caused by relevant factors, including the confrontation with the defendant and the ordinary participation of the complainant in the courtroom.

Sec. 11. In a proceeding under Section 2, 3, or 4 or Subsection (b) of Section 5 of this article, if the defendant is not represented by counsel and the court finds that the defendant is not able to obtain counsel for the purposes of the proceeding, the court shall appoint counsel to represent the defendant at the proceeding.

Sec. 12. In this article, "cross-examination" has the same meaning as in other legal proceedings in the state.

Sec. 13. The attorney representing the state shall determine whether to use the procedure provided in Section 2 of this article or the procedure provided in Section 5 of this article.

SECTION 2. PURPOSE. The purpose of this statute is to establish procedures for the taking of testimony of child complainants in certain criminal

prosecutions, while preserving the constitutional rights of defendants. The interests of the defendant include the right of confrontation, including cross-examination, under the Sixth and Fourteenth Amendments to the United States Constitution and under Article I, Section 10, of the Texas Constitution; and the right to due process of law under the Fourteenth Amendment to the United States Constitution and Article I, Section 19, of the Texas Constitution.

The state interest concerns the children who are victims of sexual offenses and who are subjected to the intimidating nature of confronting the defendant and the pressures related to the ordinary participation of the victim in a courtroom trial. In addition, because a child is more likely than an adult to have a difficult time recovering from the trauma related to an offense, it is in the state's interest that the child victim provide testimony as early and as infrequently as possible.

Finally, it is in the interest of all parties that sufficient discretion be afforded courts hearing such cases, so that the competing interest can be balanced in an individualized manner. By providing the changes included in this Act the legislature believes that the courts will have a sufficiently flexible system that properly protects the rights of defendants while reducing the deleterious effects of the criminal justice system on certain child sex crime victims.

SECTION 3. Chapter 21, Code of Criminal Procedure, is amended by adding Article 21.31 to read as follows:

Art. 21.31. (a) A person indicted for an offense under Section 22.011 or 22.021, Penal Code, shall, at the direction of the court, undergo a medical procedure or test designed to show or help show whether the person has a sexually transmitted disease or has acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. The court may direct the person to undergo the procedure or test on its own motion or on the request of the victim of the alleged offense. If the person refuses to submit voluntarily to the procedure or test, the court may require the person to submit to the procedure or test. The person performing the procedure or test shall make the test results available to the local health authority, and the local health authority shall be required to make the notification of the test result to the victim of the alleged offense. The state may not use the fact that a medical procedure or test was performed on a person under this subsection or use the results of the procedure or test in any criminal proceeding arising out of the alleged offense.

(b) Testing under this section shall be conducted in accordance with written infectious disease control protocols adopted by the Texas Board of Health that clearly establish procedural guidelines that provide criteria for testing and that respect the rights of the person accused and the victims of the alleged offense.

(c) Nothing in this section would allow a court to release a test result to anyone other than those specifically authorized by this law and the provisions of Subdivision (2), Subsection (c), Section 9.03, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), shall not be construed to allow such disclosure.

SECTION 4. Section 9.02, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), as added by H.B. 1829, 70th Legislature, Regular Session, 1987, is amended by amending Subsection (a) and by adding Subsection (g) to read as follows:

(a) A person or entity may not require another person to undergo any medical procedure or test designed to show or help show whether a person has AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS unless required under Subsection (c) or (g) of this section or under Article 21.31, Code of Criminal Procedure, or unless the medical procedure or test is necessary:

- (1) as a bona fide occupational qualification and there exists no less discriminatory means of satisfying the occupational qualification;
- (2) to screen blood, blood products, bodily fluids, organs, or tissues for the purpose of determining suitability for donation;
- (3) in relation to a particular person under this Act;
- (4) to test residents and clients of residential facilities of the Texas Department of Mental Health and Mental Retardation, but only if:
 - (A) the test result would change the medical or social management of the person tested or others who associate with that person; and
 - (B) the test is conducted in accordance with guidelines that have been adopted by the residential facility or the Texas Department of Mental Health and Mental Retardation, and approved by the department; or
- (5) to manage accidental exposure to blood or other bodily fluids but only if the test is conducted in accordance with written infectious disease control protocols adopted by the health care agency or facility and is conducted in accordance with Subsection (d) of this section;

~~[(6) a patient may be required to be tested for AIDS, for HIV infection, for antibodies to HIV, or for any other probable causative agent of AIDS if a medical procedure is to be performed on the patient that could expose health care personnel to AIDS or HIV infection, according to the Texas Board of Health guidelines defining the conditions that constitute possible exposure to AIDS or HIV infection, if there is sufficient time to receive the test results before the procedure is conducted].~~

(g) A patient may be required to be tested for AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS if a medical procedure is to be performed on the patient that could expose health care personnel to AIDS or HIV infection, according to Texas Board of Health guidelines defining the conditions that constitute possible exposure to AIDS or HIV infection, and if there is sufficient time to receive the test result before the procedure is conducted.

SECTION 5. Subsection (b), Section 9.03, Communicable Disease Prevention and Control Act (Article 4419b-1, Vernon's Texas Civil Statutes), as added by H.B. 1829, 70th Legislature, Regular Session, 1987, is amended to read as follows:

- (b) A test result may be released only to:
 - (1) the department under this Act;
 - (2) a local health authority if reporting is required under this Act;
 - (3) the Centers for Disease Control of the United States Public Health Service if reporting is required by federal law or regulation;
 - (4) the physician or other person authorized by law who ordered the test;
 - (5) a physician, nurse, or other health care personnel who have a legitimate need to know the test result in order to provide for their protection and to provide for the patient's health and welfare;
 - (6) the person tested or a person legally authorized to consent to the test on the person's behalf; ~~and~~
 - (7) the spouse of the person tested if the person tests positive for AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS and the physician who ordered the test makes the notification. This subdivision does not provide a duty to notify the spouse, and a cause of action does not arise under this subdivision for the failure to make that notification; ~~and~~
 - (8) if the person is tested as required by Article 21.31, Code of Criminal Procedure, the victim of an alleged offense listed in that article committed by the person tested. The court shall notify the victim of the alleged offense of the requirements of this Act under this section.

SECTION 6. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 7. This Act takes effect September 1, 1987.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The Conference Committee Report was read.

On motion of Senator Parmer, the Conference Committee Report was adopted by the following vote: Yeas 22, Nays 0.

Absent: Blake, Brown, Harris, Henderson, Jones, Leedom, Santiesteban, Washington, Whitmire.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 61 ADOPTED

Senator Glasgow called from the President's table the Conference Committee Report on **H.B. 61**. (The Conference Committee Report having been filed with the Senate and read today.)

On motion of Senator Glasgow, the Conference Committee Report was adopted by the following vote: Yeas 26, Nays 5.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Johnson, Jones, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Brown, Henderson, Leedom, Sarpalius, Washington.

MEMORIAL RESOLUTIONS

S.R. 110 - By Sarpalius: Memorial resolution for Walter A. Graham.

S.R. 119 - By Armbrister: Memorial resolution for Michael A. Reeves.

S.R. 130 - By Santiesteban: Memorial resolution for Mrs. Concepcion Banuelos Hernandez.

CONGRATULATORY RESOLUTIONS

S.R. 111 - By Glasgow: Extending congratulations to the Burleson Police Department for being the first agency in the State of Texas to be accredited by the Commission on Accreditation for Law Enforcement Agencies, Inc.

S.R. 112 - By Tejeda: Expressing gratitude to Lutz L. Issleib for his generous donation to the Capitol Restoration Project.

S.R. 113 - By Tejeda: Extending congratulations to Sonia Hernandez on being chosen by the Carnegie Forum on Education as a member of its panel on teacher certification standards.

S.R. 114 - By Tejeda: Commending Marcelino Lopez for his record of public service to the community of Columbia Heights and the City of San Antonio.

S.R. 117 - By Farabee: Extending birthday greetings to Bertha Mae Duck Terry.

S.R. 118 - By Farabee: Extending birthday greetings to Minnie Elizabeth Maeyers Alexander.

S.R. 120 - By Green: Commending Dr. Gerald D. Cobb of Galena Park for his 33 years of outstanding service to the children in his community and his State.

S.R. 121 - By Barrientos: Commending Douglas Andrew Chin.

S.R. 122 - By Barrientos: Extending congratulations to the First Baptist Church of Dripping Springs on its 115th anniversary.

S.R. 126 - By Parker: Commending Judge Jack Cravy for his outstanding commitment to the Texas judicial system.

S.R. 128 - By Sarpalius: Commending the Vocational Agriculture Teachers of Texas.

S.R. 129 - By Uribe: Expressing sincere appreciation to Ruben Rodriguez for his 32 years of invaluable contributions to education in Texas.

S.R. 131 - By Truan: Extending congratulations to Lad Herold on his retirement.

RECESS

On motion of Senator Brooks, the Senate at 9:21 p.m. took recess until 9:00 a.m. tomorrow.

**In Memory
of
Wilford Roy Cousins**

Senator Parker offered the following resolution:

(Senate Resolution 125)

WHEREAS, With the death of Wilfred Roy Cousins on June 11, 1987, the State of Texas lost an outstanding public servant whose footsteps marked service and progress on every path he chose to follow; and

WHEREAS, A native Texan, he was born January 9, 1915, in Newton County, the son of William Roy Cousins and Essie Mae Fortenberry; and

WHEREAS, A graduate of Beaumont High School and South Park Junior College, Mr. Cousins attended The University of Texas and The University of Texas School of Law; and

WHEREAS, After gallantly serving his country in the United States Army during World War II, Mr. Cousins was elected to the Texas House of Representatives; and

WHEREAS, Elected to the Texas Senate in 1946, he loyally and faithfully addressed the needs of his constituency and was instrumental in passing the Lamar College Bill and creating the Port Commission; and

WHEREAS, Despite the demands of a busy law practice, he remained active in political affairs after his retirement from the Senate; and

WHEREAS, A respected cattleman, he was also active in the lumber business; and

WHEREAS, He contributed his time and talents to the Paul Revere Chapter of the Sons of the American Revolution, Westwood Bible Church, Texas Bar Association, Southwest Cattle Raisers Association, and the Farm Bureau; and

WHEREAS, The varied and notable achievements of this distinguished gentleman in the realm of business, religious affairs, and civic betterment have contributed immensely to the dynamic growth and progress of his beloved state; and

WHEREAS, The State of Texas has benefitted enormously from the wisdom and expertise of this illustrious public servant who conscientiously discharged his duties in a most exemplary manner; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, 2nd Called Session, hereby extend sincere condolences to the members of his family: his wife, Evelyn Lee Conaway Cousins; his sons, William Reeder "Trey" Cousins and Robert Edgar Cousins; and his grandsons, William Randall Cousins IV and Travis Alexander Cousins; and, be it further

RESOLVED, That copies of this resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Wilfred Roy Cousins.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Parker, the resolution was adopted by a rising vote of the Senate.